

REMARKS

The Office Action mailed November 23, 2004 has been carefully reviewed and the foregoing amendment and following remarks are made in consequence thereof.

Claims 1-20 are now pending in this application. Claims 1-20 stand rejected. Claims 1, 9, and 19 have been amended. No new matter has been added.

The rejection of Claims 1-20 under 35 U.S.C. § 103(a) as being unpatentable over Papadopoulos et al. (U.S. Pat. No. 6,282,454) in view of Worley et al. (U.S. Pat. No. 6,651,190) is respectfully traversed.

Papadopoulos et al. describe a web interface that provides access to a programmable logic controller (PLC) back plane (column 2, lines 54-56). A user at a remote location accesses the PLC through the Internet (column 2, lines 54-56). The interface translates the industry standard Ethernet, TCP/IP and HTTP protocols used on the Internet into data recognizable to the PLC (column 2, lines 56-58).

Worley et al. describe an organization of communication links from a remote computer station to a maintenance controller (column 7, lines 27-30). Specifically, a monitored host computer (110) contains the remote maintenance controller or device (100) (column 7, lines 30-31). The remote maintenance device contains a wireless connection (102) that connects to a wireless Internet Service Provider (120) (ISP) or a conventional cell phone provider (column 7, lines 31-35). The wireless connection to the Internet allows access to the remote maintenance controller from anywhere a remote technician has Internet or standard modem access (column 7, lines 35-38). One example is a remote computer station (130) which connects to the Internet through a conventional modem (134) (column 7, lines 38-39). Of course, in this scenario, any remote connection to the Internet would suffice (column 7, lines 40-41). A second example is a remote computer station (132) which dials into the ISP using a wireless connection or standard modem and performs a service required for the host computer (column 7, lines 41-46).

Claim 1 recites a method for controlling and monitoring an industrial controller using a portable wireless device, utilizing a system including a programmable logic controller (PLC), a local server, and a wireless Internet Service Provider (ISP), the method comprising the steps of “monitoring and controlling a system using a programmable logic controller (PLC); exchanging communications between the PLC and a local server; exchanging communications between the local server and a wireless Internet Service Provider (ISP) server utilizing the Internet; transmitting, via the wireless ISP server, commands from a wireless user communication device to the PLC, wherein the PLC is configured to determine whether to energize an output module based on a state of an input module; displaying information retrieved from the PLC using the wireless ISP server; and controlling said PLC, via said wireless ISP server, by formatting, in a wireless markup language, responses to the commands.”

Neither Papadopoulos et al. nor Worley et al., considered alone or in combination, describe or suggest a method for controlling and monitoring an industrial controller using a portable wireless device as recited in Claim 1. Specifically, neither Papadopoulos et al. nor Worley et al., considered alone or in combination, describe or suggest controlling the PLC, via the wireless ISP server, by formatting, in a wireless markup language, responses to the commands. Rather, Papadopoulos et al. describe providing, by a web interface, access to a programmable logic controller back plane. Worley et al. describe dialing, by a remote computer station, into an ISP by using a wireless connection or standard modem and performing a service required for a host computer. No combination of Papadopoulos et al. and Worley et al. describes or suggests controlling as recited in Claim 1. For at least the reasons set forth above, Claim 1 is patentable over Papadopoulos et al. in view of Worley et al..

Claims 2-8, 19 and 20 depend, directly or indirectly, from independent Claim 1. When the recitations of Claims 2-8, 19 and 20 are considered in combination with the recitations of Claim 1, Applicant submits that dependent Claims 2-8, 19 and 20 likewise are patentable over Papadopoulos et al. in view of Worley et al..

Claim 9 recites a system for controlling and monitoring an industrial controller using a wireless device, the system comprising “a programmable logic controller (PLC); a local server configured to exchange communication with said PLC; a wireless Internet Service Provider (ISP) server configured to exchange communication with said local server using the Internet, wherein said wireless ISP server configured to control said PLC by formatting, in a wireless markup language, a set of responses to a set of commands; and a wireless user communication device configured to exchange communication with said wireless ISP server, wherein said PLC configured to exchange communication via said wireless ISP server with said wireless user communication device and configured to determine whether to energize an output module based on a state of an input module.”

Neither Papadopoulos et al. nor Worley et al., considered alone or in combination, describe or suggest a system for controlling and monitoring an industrial controller using a wireless device as recited in Claim 9. Specifically, neither Papadopoulos et al. nor Worley et al., considered alone or in combination, describe or suggest the wireless ISP server configured to control the PLC by formatting, in a wireless markup language, a set of responses to a set of commands. Rather, Papadopoulos et al. describe providing, by a web interface, access to a programmable logic controller back plane. Worley et al. describe dialing, by a remote computer station, into an ISP by using a wireless connection or standard modem and performing a service required for a host computer. Accordingly, no combination of Papadopoulos et al. and Worley et al. describes or suggests the wireless ISP server as recited in Claim 9. For at least the reasons set forth above, Claim 9 is patentable over Papadopoulos et al. in view of Worley et al..

Claims 10-18 depend from independent Claim 9. When the recitations of Claims 10-18 are considered in combination with the recitations of Claim 9, Applicant submits that dependent Claims 10-18 likewise are patentable over Papadopoulos et al. in view of Worley et al..

Moreover, Applicant respectfully submits that the Section 103 rejection of Claims 1-20 is not a proper rejection. As is well established, obviousness cannot be established by

combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. Neither Papadopoulos et al. nor Worley et al., considered alone or in combination, describe or suggest the claimed combination. Furthermore, in contrast to the assertion within the Office Action, Applicant respectfully submits that it would not be obvious to one skilled in the art to combine Papadopoulos et al. with Worley et al. because there is no motivation to combine the references suggested in the art.

As the Federal Circuit has recognized, obviousness is not established merely by combining references having different individual elements of pending claims. Ex parte Levengood, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993). MPEP 2143.01. Rather, there must be some suggestion, outside of Applicant's disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicant's disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion or motivation to combine the prior art disclosures, nor any reasonable expectation of success has been shown.

Furthermore, it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. Further, it is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. The present Section 103 rejection is based on a combination of teachings selected from multiple patents in an attempt to arrive at the claimed invention. Specifically, Papadopoulos et al. teach providing, by a web interface, access to a programmable logic controller back plane. Worley et al. teach dialing, by a remote computer station, into an ISP by using a wireless connection or standard modem and performing a service required for a host computer. Since there is no teaching nor suggestion in the cited art for the combination, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an

Express Mail No. EV459192584US

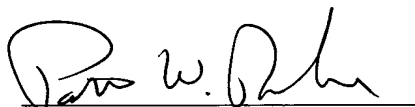
30-GF-1100
PATENT

attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicant's request that the Section 103 rejection of Claims 1-20 be withdrawn.

For at least the reasons set forth above, Applicants respectfully request that the rejection of Claims 1-20 under 35 U.S.C. 103(a) be withdrawn.

In view of the foregoing remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Patrick W. Rasche", written over a horizontal line.

Patrick W. Rasche
Registration No. 37,916
ARMSTRONG TEASDALE LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740
(314) 621-5070